

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WARREN JOHNSON,

Plaintiff,

v.

Case No. 3:19-cv-00180-C (BT)

MIKE RAWLINGS, *et al.*,

Defendants.

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

On January 24, 2019, Plaintiff Warren Johnson filed an Original Complaint, Application for Injunctive Relief, and Motion for Declaratory Judgment (ECF No. 1) challenging—on First Amendment grounds—Defendants’ decision to remove a granite plinth, as well as nearby seating and stairs adjacent to the plinth, from Oak Lawn Park in Dallas, Texas (the “Park”).¹ The plinth once provided a foundation for a statue depicting General Robert E. Lee and a Confederate Soldier (the “Lee Statue”). The City of Dallas removed the Lee Statue from the Park in September 2017 but left the plinth. At the time Plaintiff filed his Original Complaint the plinth, the seating, and the stairs remained in the Park.

¹ Defendants are the City of Dallas, Dallas Mayor Mike Rawlings, and Dallas City Council members Scott Griggs, Adam Medrano, Casey Thomas II, Carolyn King Arnold, Rickey Callahan, Omar Narvaez, Kevin Felder, Tennell Atkins, Mark Clayton, Adam McGough, Lee Kleinman, Sandy Greyson, Jennifer Gates, and Philip Kingston.

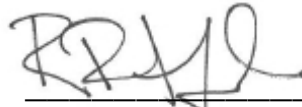
Plaintiff filed an ex parte Motion for a Temporary Restraining Order (ECF No. 3) contemporaneously with his Complaint and asked the Court to enjoin Defendants from removing the plinth, the seating, and the stairs during the pendency of this lawsuit. The District Court denied Plaintiff's Motion for a Temporary Restraining Order (ECF No. 4) and referred his request for preliminary injunctive relief to the undersigned magistrate judge for Findings, Conclusions, and a Recommendation. Referral Order (ECF No. 5). The District Court directed the magistrate judge to schedule a hearing to consider Plaintiff's request for a preliminary injunction after the Defendants have all answered the Complaint. *Id.*

On March 29, 2019, Defendants filed a Motion to Dismiss, asserting, among other things, that Plaintiff's request for injunctive relief regarding removal of the plinth, the seating, and the stairs is moot because those elements were removed from the Park on March 7, 2019. *See* Defs.' Mot. App., Ex. 19 at 2 (ECF No. 9). In response, Plaintiff filed an Amended Complaint (ECF No. 14) in which he acknowledges that the City removed the plinth, the seating, and the stairs from the Park. Pl.'s Am. Compl. 9, ¶ 27. Plaintiff's Amended Complaint does not ask the Court to enjoin Defendants from removing the plinth.

In view of all the circumstances, the undersigned finds and concludes that Plaintiff's request for preliminary injunctive relief regarding the removal of the plinth, the seating, and the stairs is moot and should be DENIED as such. *See, e.g., Harris v. City of Houston*, 151 F.3d 186, 189 (5th Cir. 1989) (finding that a request for injunctive relief is moot when the event sought to be enjoined has occurred).

SO ORDERED.

April 30, 2019.

A handwritten signature in black ink, appearing to read 'RR', is written above a horizontal line.

REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE